HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20299 of 2006

Dated:13.11.2006

Between:

Maddeboina Musalaiah and others.

…Petitioners

and

The District Collector and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20299 of 2006

ORDER:

The petitioners who are 33 in number filed this Writ Petition seeking a writ of mandamus declaring the action of the respondents in trying to interfere and dispossess them from the lands assigned to them vide proceedings dated 16.04.2006 of the third respondent, namely, the Mandal Revenue Officer (MRO), Chandra Shekara Puram Mandal in Prakasam District.

It is the case of the petitioners that all of them were assigned land admeasuring Acs.4.00 to 5.00 vide orders dated 16.04.2004 issued by the MRO. They further allege that this land was taken over by the Land Reforms Tribunal under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, and was allotted to the petitioners, as they are landless poor persons, on condition of payment of the market value in fifteen annual installments. The petitioners statedly brought the land under cultivation and were in possession of the land. They allege that prior to filing of the Writ Petition, respondents took measurements of the land informing them that the land is surveyed for the purpose of assigning the same to the landless poor persons. Therefore, the present Writ Petition is filed.

At the stage of preliminary hearing itself, the MRO has filed counter affidavit denying grant of pattas to the petitioners. The MRO further states that after receiving the notice from the Court she called her predecessor, Sri B.Sambasiva Rao, who worked as MRO in Chandra Shekara Puram in April 2004, that he informed that he never signed the proceedings under which the petitioners were allegedly granted pattas, and therefore, the petitioners have created forged documents claiming them to be temporary pattas. It is further stated that the lands are vacant on the ground and earmarked as grazing poramboke, and that Peddagogulapalli Gram Panchayat passed resolution on 10.09.2006 requesting the Government for conversion of the land in Survey No.392 from grazing poramboke to assessed waste to enable the Gram Panchayat to distribute the same to eligible beneficiaries. The proposals were therefore sent to the District Collector through proper channel proposing conversion from grazing poramboke to assessed waste.

The petitioners filed a detailed reply affidavit denying the counter averments. They admit that the land was originally classified as grazing poramboke, that Gram Panchayat passed resolution in December 2003 and February 2004 for conversion of grazing poramboke into assessed waste so as to allot the same to landless poor persons. The petitioners assert that the MRO passed orders on 16.04.2004 assigning the land to them.

Learned Counsel for the petitioners and the learned Assistant Government Pleader for Revenue (Assignment) made submissions on the same lines as contained in the pleadings.

The essential question is whether the petitioners have any enforceable right to seek a mandamus restraining the respondents from interfering with the alleged possession of the petitioners without due process of law? So as to seek a relief, the petitioners have to necessarily prove that they were granted temporary pattas in April 2004. When the MRO has enquired into the matter, and with reference to the submissions made by the earlier MRO, files a sworn affidavit before this Court that the then MRO never granted house site pattas and the pattas produced before this Court are forged, the matters should rest there. In a Writ Petition, further enquiry is not possible. Though learned Counsel for the petitioners strenuously comments to the Court to order an enquiry into the allegation made by the present MRO, this Court is not inclined to do so. The petitioners may approach

the District Collector in this regard.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

13.11.2006
vs